

Hon. Marsha J. Pechman

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

LEFT COAST VENTURES, INC., a  
Delaware corporation,

Plaintiff,

v.

BILL'S NURSERY, INC., a Florida  
corporation; and STEPHEN GARRISON,  
an individual,

Defendants.

No. 2:19-cv-01297-MJP

JOINT STATUS REPORT AND  
DISCOVERY PLAN

Pursuant to the Order Regarding Initial Disclosures, Joint Status Report, and Early Settlement (Dkt. No. 9), plaintiff Left Coast Ventures, Inc. ("Left Coast") and defendants Bill's Nursery, Inc. ("BNI") and Stephen Garrison ("Garrison") (BNI and Garrison collectively, "Bill's Nursery") (Left Coast and Bill's Nursery collectively, "the Parties") submit this Joint Status Report and Discovery Plan.

**1. Statement of the Nature and Complexity of the Case**

Left Coast asserts declaratory judgment and breach of contract claims against Bill's Nursery arising from what Left Coast alleges to be an option to purchase BNI. BNI denies

1 Left Coast's claims and has brought a motion to dismiss under Fed. R. Civ. P. 12(b)(6) for  
2 failure to state a claim upon which relief can be granted.<sup>1</sup>

3 The case is not complex.

## 4 **2. Proposed Deadline for Joining Additional Parties**

5 The Parties propose February 13, 2020, as the deadline to move to join additional  
6 parties. By proposing this deadline, neither Left Coast nor Bill's Nursery concede that  
7 joining an additional party is warranted, and Left Coast and Bill's Nursery reserve their  
8 rights to oppose a motion to join an additional party.

## 9 **3. Consent to a Magistrate Judge**

10 No.

## 11 **4. Discovery Plan**

### 12 **A. Initial Disclosures**

13 The Parties have exchanged initial disclosures.

### 14 **B. Subjects, Timing, and Potential Phasing of Discovery**

15 The Parties anticipate taking discovery relating to each other's claims and defenses.

16 Bill's Nursery believes discovery should be stayed pending resolution of its motion  
17 to dismiss. Left Coast does not believe a stay is appropriate.

18 The Parties do not believe discovery should be conducted in phases.

### 19 **C. Electronically Stored Information**

20 Although certain communications and other documents relevant to this case are  
21 stored electronically, at this time the Parties do not anticipate any particular issues  
22 regarding the disclosure, discovery, or preservation of electronically stored information.  
23  
24  
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26 <sup>1</sup> Left Coast has withdrawn a claim it had asserted for unjust enrichment. See Left Coast's Response to Motion to Dismiss (Dkt. No. 10) at 14.

**D. Privilege Issues**

The Parties do not anticipate any unusual issues relating to the attorney-client privilege or work product doctrine.

The Parties agree that the disclosure of attorney-client privileged communications and/or work product doctrine-protected materials will not waive the protection of the attorney-client privilege or work product doctrine provided that (1) the disclosure is inadvertent, (2) the holder of the privilege or protection takes reasonable steps to prevent disclosure, and (3) the holder promptly takes reasonable steps to rectify the error. The Parties agree that documents that the producing party believes contain privileged or protected information that were inadvertently produced will be destroyed by the receiving party or returned or sequestered under Fed. R. Civ. P. 26(b)(5)(B) until the claim of privilege or protection is resolved by the Court.

**E. Proposed Limitations on Discovery**

At this time, the Parties do not believe any changes in the limitations on discovery imposed under the Federal Rules of Civil Procedure or under the Western District of Washington Local Civil Rules are necessary.

**F. Need for Discovery Related Orders**

The Parties may file a Stipulated Motion and [Proposed] Protective Order. The Stipulated Motion and [Proposed] Protective Order will be similar in form to the Western District of Washington Model Stipulated Protective Order. Per LCR 26(c)(2) the Parties will provide the Court with the Stipulated Motion and [Proposed] Protective Order that identifies in redline proposed departures from the Model Stipulated Protective Order.

**5. Local Civil Rule 26(f)(1)**

**A. Prompt Case Resolution**

The parties will endeavor to shorten and simplify the case to the extent reasonably possible while protecting the legitimate interests of all Parties.

1                   **B. Alternative Dispute Resolution**

2           The Parties have not yet determined if they will engage in alternative dispute  
3 resolution. If they do engage in alternative dispute resolution, they would mediate. The  
4 Parties will not engage in the individualized trial program set forth in LCR 39.2.

5                   **C. Related Cases**

6           None.

7                   **D. Discovery Management**

8           At this time the Parties do not believe the number or scope of depositions should be  
9 limited beyond the limitations in the Federal Rules of Civil Procedure. At this time, the  
10 Parties request a Fed. R. Civ. P. 16(b) and LCR 16(b)(1) scheduling order, but do not  
11 request that the Court use an abbreviated pretrial order.

12           To the extent Defendants' motion to dismiss is denied, Defendants intend to seek an  
13 order expediting the case as Defendants contend that Left Coast's lawsuit (which claims it  
14 has attempted to exercise an option to purchase, and therefore should own, BNI) has created  
15 an issue that interferes with Defendants' ability to operate Bill's Nursery as a going  
16 concern.

17                   **E. Anticipated Discovery Sought**

18           See Paragraph 4(B).

19                   **F. Phasing of Motions**

20           At this time the Parties do not believe any particular phasing of motions should be  
21 ordered.

22                   **G. Preservation of Discoverable Information**

23           The Parties are preserving discoverable information.

24                   **H. Privilege Issues**

25           See Paragraph 4(D).

26

## **I. Model Protocol for Discovery of ESI**

See Paragraph 4(C).

At this time the Parties do not believe there is a need to adopt the Model Agreement Regarding Discovery of Electronically Stored Information in Civil Litigation, but will advise the Court if discovery proves more complicated than originally anticipated.

## **J. Alternatives to Model Protocol for Discovery of ESI**

As the Parties do not believe that electronically stored information will present unusual issues in this matter, the Parties have not agreed regarding protocols for the topics identified in LCR 26(f)(1)(J). Should electronically stored information become an issue in this case, the Parties will revisit the topics identified in LCR 26(f)(1)(J).

### **6. Date by Which Discovery can be Completed**

Bill's Nursery believes discovery can be completed by May 30, 2020. Left Coast believes discovery can be completed by July 10, 2020.

### **7. Bifurcation**

The Parties do not believe the case should be bifurcated.

### **8. Pretrial Statements and Pretrial Order**

At this time the Parties do not believe the pretrial statements and pretrial order called for by LCR 16(e), (h), (i), and (k) and 16.1 should be dispensed with in whole or in part for the sake of economy. The Parties will revisit potential alterations to the requirements for pretrial statements and pretrial order for the sake of economy nearer to the trial date for this case.

### **9. Other Suggestions for Shortening or Simplifying the Case**

The Parties have no other suggestions for shortening or simplifying the case, but will endeavor to work to shorten and simplify the case to the extent reasonably possible while protecting the legitimate interests of all Parties.

**10. Date Case Will be Ready for Trial**

Bill's Nursery suggests a trial date of August 17, 2020. Left Coast suggests a trial date of October 19, 2020.

**11. Whether the Trial will be Jury or Non-Jury**

Left Coast has not requested a jury. Bill's Nursery will demand a jury trial if this case proceeds past Bill's Nursery's motion to dismiss.

**12. Number of Trial Days**

The Parties anticipate that this case can be resolved in three trial days. The Parties will revisit this estimate closer to the trial date.

**13. Names, Addresses, and Telephone Numbers of All Trial Counsel**

**Counsel for Left Coast**

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**14. Trial Counsel Commitments to be Considered in Setting Trial Date**

None at this time. Counsel will promptly advise the Court of commitments that arise that may conflict with the trial date.

**15. Status of Service on Defendants**

The defendants have been served.

**16. Scheduling Conference**

The Parties do not request a scheduling conference before the Court enters a scheduling order in this case.

**17. Corporate Disclosure Statements**

Left Coast filed its Fed. R. Civ. P. 7.1 / LCR 7.1 Corporate Disclosure Statement on August 22, 2019. BNI filed its Fed. R. Civ. P. 7.1 / LCR 7.1 Corporate Disclosure Statement on August 23, 2019.

DATED: October 25, 2019.

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*Attorneys for Bill's Nursery, Inc. and  
Stephen Garrison*

**CERTIFICATE OF SERVICE**

I, Annabel Barnes, certify that on October 25, 2019, I electronically filed and served a copy of the foregoing with the Clerk of the Court and on counsel for Defendants using the CM/ECF system:

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DATED this 25<sup>th</sup> day of October, 2019:

/s/ Annabel Barnes  
Annabel Barnes, Legal Assistant